IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 16374 of 2006(Y)

PETITIONER:

CENTURY PLASTICS AND CHEMICAL
REPRESENTED BY IS MANAGING PARTNER, P.P. UNAISA,
MANJERI-676122, MALAPPURAM DISTRICT.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.

2. DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD, ANTI POWER THEFT
SQUAD, KOZHIKODE.

3. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, MANJERI (SOUTH),
MANJERI P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTOCOPY OF THE MAHAZAR DATED 20.9.2002 PREPARED BY SUB ENGINEER.

EXT.P2 TRUE PHOTOCOPY OF THE PENAL BILL RECEIVED BY THE PETITIONER DEMANDING AN AMOUNT OF RS. 39242/- FROM THE THIRD RESPONDENT ON 25.11.2002

EXT.P3 TRUE PHOTOCOPY OF THE APPEAL DATED 26.11.2002 SUBMITTED BY THE PETITIONER BEFORE THE DEPUTY CHIEF ENGINNER, APTS, THIRUVANANTHAPURAM.

EXT.P4 TRUE PHOTOCOPY OF THE JUDGMENT DATED 3.12.2002 IN OP 36372 OF 2002 OF THIS HON'BLE COURT.

EXT.P5 TRUE COPY OF THE PENAL BILL DATED 15.1.2003 FOR RS. 33,185/- WITH DIRECTION TO PAY THE SAME ON OR BEFORE 31.1.2003

EXT.P6 TRUE PHOTOCOPY OF THE APPEAL DATED 31.1.2003 SUBMITTED BY THE PETITIONER BEFORE THE DEPUTY CHIEF ENGINEER APTS, THIRUVANANTHAPURAM.

EXT.P7 TRUE PHOTOCOPY OF THE JUDGMENT DATED 11.2.2003 IN OP 4787 OF 2003 OF THIS HON'BLE COURT.

EXT.P8 TRUE PHOTOCOPY OF THE ORDER DATED 31.5.2006 RECEIVED BY THE PETITIONER ON 12.6.2006

EXT.P9 (a) TRUE PHOTOCOPY OF THE BILL FOR THE MONTH 3/02 AND 4/02 ALREADY PAID BY THE PETITIONER.

EXT.P9(b) TRUE PHOTOCOPY OF THE BILL FOR THE MONTH 5/02 AND 6/02 ALREADY PAID BY THE PETITIONER.

EXT.P9(c) TRUE PHOTOCOPY OF THE BILLS FOR THE MONTH 7 & 8/2002 ALREADY PAID BY THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 16374 OF 2006

Dated this the 26th day of July, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for KSEB. Petitioner is challenging Ext.P5 bill which is confirmed in Ext.P8 order in appeal. The case of the Ele. Board is that on inspection, the meter was found to be defective. However, petitioner contended that meter was working quite normally as it is evident from the recording shown for the period April, 2002 to September 2002 for which period additional bill is raised. It is seen that average consumption recorded for October, November, and December, 2002 was 17480 units whereas the variation noticed with reference to the average consumption for the five months other than July, 2002 ranges from 631 units to 3530 units. So far as July, 2002 is concerned, the actual consumption recorded is 2000 units more than the average consumption for three months, October, November and December, 2002. After setting off the excess recorded for July, 2002, the average variation is less than 10% of the consumption recorded . In the circumstances, I feel it would be unfair

to raise addl. demand based on doubt, more so when the meter was obviously working, but the allegation was that it was sluggish. In the circumstances, W.P. is allowed quashing Ext.P5. Whatever payment made under Ext.P5 will be adjusted towards future bills.

(C.N.RAMACHANDRAN NAIR)
Judge